

Civil No. BO 68401

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION 4

GERALD ARMSTRONG

Petitioner,

vs.

SUPERIOR COURT OF THE STATE OF  
CALIFORNIA FOR THE COUNTY OF  
LOS ANGELES, CENTRAL DISTRICT

Respondent.

CHURCH OF SCIENTOLOGY  
INTERNATIONAL, a California  
not-for-profit religious  
corporation

Real Party in Interest

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AUG 10 1992

HUB LAW OFFICES

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COURT REPORTER'S TRANSCRIPT RE  
PETITION FOR WRIT OF MANDATE

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Attorneys for Petitioner  
Gerald Armstrong



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Attorneys for Petitioner  
Gerald Armstrong

## SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 30 HON. DAVID A. HOROWITZ, JUDGE

CHURCH OF SCIENTOLOGY,

Plaintiff,

vs.

GERALD ARMSTRONG, ET. AL.,

Defendant.

NO. BC 052 395

## REPORTER'S TRANSCRIPT

JULY 2, 1992

## APPEARANCES:

ORIGINAL

## FOR THE PLAINTIFF:

BOWLES AND MOXON  
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CECIL G. KNICKERBOCKER, OFFICIAL REPORTER - CSR # 8684

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HEARING ON DEMURRER AND MOTION TO STRIKE

WITNESS (ES)	NAME	DIRECT	CROSS	REDIRECT	RECROSS
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NONE

E - X - H - I - B - I - T - S

IDENTIFICATION	MARKED	RECEIVED	REVIEWED
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NONE



1 LOS ANGELES, CA.; TUESDAY, JULY 2, 1992; 8:30 A. M.

2 (MORNING SESSION)

3 THE COURT: Church of Scientology versus Armstrong.

4 MR. MORANTZ: Good morning, Your Honor.

5 Paul Morantz for Defendant Armstrong, moving  
6 party.

7 MS. BARTILSON: Good morning, Your Honor.

8 Laurie Bartilson of Bowles and Moxon,  
9 plaintiff for Church of Scientology, Limited.

10 MR. MORANTZ: I would request argument, Your Honor.

11 THE COURT: Just a second.

12 Okay, go ahead.

13 MR. MORANTZ: Your Honor, I was a little bit  
14 surprised by the tentative -- surprised in the one sense  
15 that your tentative said that the matter was subject to  
16 proof; that the Court wasn't making a similar decision one  
17 way or another as today; therefore, the demurrer would be  
18 denied.

19 We filed before the Court the subject  
20 contract. We filed before the Court the side agreements  
21 about May (phonetic) setting up the phony appeal and mock  
22 trial in the Court. Those agreements and contracts are  
23 before the Court.

24 There is case law which is by the courts that  
25 says that it's the Court's duty when there is evidence or  
26 contracts against public policy, even if the matter first  
27 arises on appeal, to ferret it out and dissolve it. If we  
28 were to file summary judgment motions, we would have



1 arguments over the intent. But the contracts speak for  
2 themself. I'm sure the Court has read it.

3 Your Honor, as I said in my opposition -- And  
4 I'm hoping that I might be able to strike a chord and might  
5 be able to convince the Court to at least take the matter  
6 under submission and reread that contract, because there's  
7 never been a contract before any court that so adversely  
8 affect the judicial system, change possibly the cost  
9 defense burden in the system.

10 Contracts against public policy take in the  
11 interest of the third parties, the public. It's not just  
12 the client. In fact, Mr. Armstrong is here in the Court,  
13 perhaps may be least injured by this litigation. If I were  
14 to say who my clients were, I would swing around this  
15 court, and I would look at the lawyers, and their clients,  
16 and you, Your Honor, in one essence is my client.

17 Because everyone will suffer by a contract  
18 that says that people may pay witnesses -- pay witnesses  
19 money to never voluntarily come to a court and testify  
20 against you, to never sign a declaration under oath that  
21 can be filed in a courtroom, to avoid being amiable to  
22 service.

23 So that every lawyer sued by Scientology, or  
24 should other lawyers decide to take this tactic, will be  
25 unable to file declarations in law and motion, will be  
26 unable to oppose summary judgments with declarations of  
27 witnesses, if there's no time to take depositions.

28 If they want to interview a witness, they'll



1 have to depose him with added expense; expense that all  
2 counsel knows that they try to save their clients. As we  
3 pointed out, Judge Cohegan (phonetic) made a distinction.  
4 He said, We will not grant an injunction against  
5 governmental agencies. They can interview Mr. Armstrong  
6 any time they want, but civil litigants, civil attorneys  
7 cannot interview him, because he was paid money not to.

8 And I would submit, Your Honor, that the  
9 public has as much interest in the ordinary process and due  
10 process of the civil law as it does to criminal. We have  
11 statutes to provide for civil penalties, punitive damages,  
12 treble damages. Public policy reeks in our civil  
13 litigation, Your Honor.

14 We could sit here for hours and talk about  
15 civil cases that had a benefit on this society. In  
16 essence, they say against public policy. And I called this  
17 contract "evil" in my moving papers. I can only tell you,  
18 Your Honor, that there is only one contract that I ever  
19 heard of that is more evil than this. And that one someone  
20 got your soul at the end of seven years.

21 I'm not saying I'm Daniel Webster, but what I  
22 am saying is, if this type of contract becomes approved by  
23 the courts in this judicial system, they might as well hang  
24 a sign outside the courtroom that says, "Abandon all hope,  
25 ye who enter."

26 THE COURT: Okay.

27 MR. MORANTZ: I'm hoping the Court will consider it,  
28 reread it, because I think the contract speaks in itself as



1 to its illegality, Your Honor.

2 THE COURT: Okay.

3 MS. BARTILSON: Your Honor, I think that -- that  
4 the dramatics provided by Mr. Morantz don't actually speak  
5 to the real contract that is in front of Your Honor.

6 THE COURT: The what?

7 MS. BARTILSON: The real contract that is, in fact,  
8 in front of Your Honor. This was a settlement agreement.  
9 The settlement agreement was reached, not with some witness  
10 out on the street for some particular case, but with a  
11 gentleman who had been fomenting litigation against this  
12 religious corporations for years. Uh, it was reached after  
13 serious negotiation with competent counsel on all sides.

14 Uh, and not only has -- is this contract not  
15 particularly unique, but every time a similar contract with  
16 similar provisions have been before courts, those contract  
17 provisions have been upheld.

18 So, uh, it's a difficult tack, but I don't  
19 think that it's a question of law before the Court that can  
20 be decided on demurrer. Whether or not some provision in  
21 this contract is or is not violative of public policy. Mr.  
22 Armstrong has clearly breached the agreement, we rebutted  
23 the complaint. It's all there.

24 MR. MORANTZ: Can I state two points in rebuttal,  
25 Your Honor?

26 MS. BARTILSON: I'm not done, Mr. Morantz.

27 MR. MORANTZ: I'm sorry. I'm sorry. I thought you  
28 were done.



1 THE COURT: No. Go Ahead.

2 MS. BARTILSON: I just would refer the Court to the  
3 cases that we've cited in our brief of, uh, Wakefield  
4 (phonetics) versus Church of Scientology, California;  
5 Mclean versus Church of Scientology, California.

6 Both of those cases arose in Florida. But  
7 they're instructive, because the settlement agreement  
8 provisions were substantially similar to the ones here.  
9 And you can -- If you look at the cases I've given you --  
10 the appellate court opinions, because the district court  
11 opinions are appropriately sealed by the court at the  
12 request of the church, because of the nondisclosure  
13 provisions of the agreement, which the Court upheld and  
14 termed both those in lieu to come to the court for filing.

15 In addition, a settlement was reached in this  
16 very courthouse just last year under the watchful eye of  
17 Judge Nan Savage (phonetics), which contains provisions  
18 identical to the ones that Mr. Morantz finds so evil, and  
19 were spelled out, in particular, on the record before Judge  
20 Savage. And that case is Corden versus Church of  
21 Scientology, International.

22 So, uh, I believe it's a matter that if anyone  
23 should speak to it, it's the legislature. The provisions  
24 do not prevent testimony. There's nothing illegal or  
25 improper about them. All they prevent is -- from -- is Mr.  
26 Armstrong from making a business out of getting other  
27 people to sue the party that he settled with for a great  
28 deal of money



1 THE COURT: All right. In this matter, the demurrer  
2 is overruled. I think, at this point, you haven't stated a  
3 cause of action.

4 The Court is making no rulings as far as the  
5 contract is concerned, whether it is for or against, or it  
6 really has anything to do with public policy.

7 The motion to strike is granted as to  
8 paragraph 3, page 3, lines eight through ten. It's granted  
9 as to paragraph 12, page 4 through page 6, line 13. And  
10 it's denied as to the remaining request. That will be the  
11 order.

12 MS. BARTILSON: Thank you, Your Honor.

13 MR. MORANTZ: Thank you, Your Honor.

14 THE CLERK: Notice, Counsel?

15 MR. MORANTZ: I would like to give notice, Your  
16 Honor, to make sure that the indication there's no ruling  
17 on the public policy at this time is included in the  
18 notice.

19 MS. BARTILSON: How long before the answer, Your  
20 Honor?

21 THE COURT: Twenty days.

22 MR. MORANTZ: Thank you, Your Honor.

23 THE COURT: Okay.

24 (Proceedings in the above-entitled  
25 matter were concluded)  
26  
27  
28



SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES  
DEPARTMENT NO. 30 HON. DAVID A. HOROWITZ, JUDGE

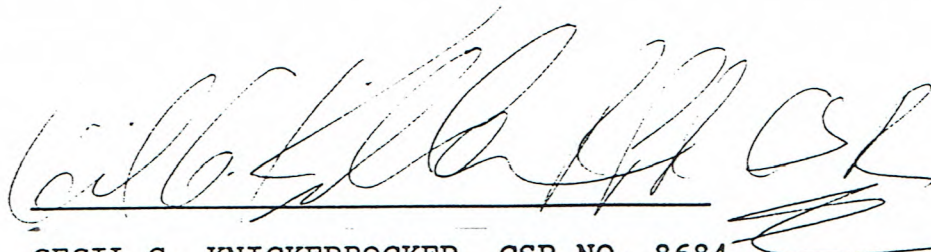
CHURCH OF SCIENTOLOGY, )  
 )  
Plaintiff, )  
 )  
vs. ) NO. BC 052 395  
 )  
GERALD ARMSTRONG, ET. AL., )  
 )  
Defendant. )

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA )  
 )  
COUNTY OF LOS ANGELES )

I, CECIL G. KNICKERBOCKER, OFFICIAL COURT  
REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,  
FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE  
FOREGOING PAGES 1 THROUGH 9, INCLUSIVE, COMPRISE A TRUE AND  
CORRECT TRANSCRIPT OF THE PROCEEDINGS TAKEN IN THE  
ABOVE-ENTITLED MATTER REPORTED BY ME ON JULY 2, 1992.

DATED THIS 29TH DAY OF JULY 1992.

  
CECIL G. KNICKERBOCKER, CSR NO. 8684  
OFFICIAL COURT REPORTER



PROOF OF SERVICE BY MAIL

I am a resident of Los Angeles County, am over the age of eighteen, and not a party to the herein action. My business address is P.O. Box 511, Pacific Palisades, California 90272.

On August 7, 1992, I served the within Court Reporter's Transcript re Petition for Writ of Mandate on the parties by placing a copy of the same in a sealed envelope with postage thereon and placed the same in the United States mail at Pacific Palisades address as follows:

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San Francisco, CA 94104

Laurie J. Bartilson  
BOWLES & MOXON  
6255 Sunset Boulevard  
Suite 2000  
Hollywood, CA 90028

I declare that the above is true under the penalty of perjury. Executed on August 7, 1992, at Pacific Palisades, California.

  
Frederica C. Schubeck